IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1023 OF 1996

J. S. Jadav ..Petitioner

versus
S. B. Kulkarni, the Addl. Commissioner of Police, Pune & Ors. ..Respondents

Mr. Sanjay Mishra, Advocate appointed for the Petitioner.

Mrs. A. S. Pai, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
S. A. BOBDE,JJ.

DATE : 21ST JUNE, 2006

ORAL ORDER :

1. Heard learned Advocate for the Petitioner and the learned APP for the Respondents - State.

2. Case of the petitioner is that he had a son by name Vishal aged about 15 years. On 8.11.1995 at about 7 p.m. Vishal got temperature and headache. He was given treatment at home. Thereafter on the next day morning he was treated by his regular doctors, who then advised the petitioner to get Vishal admitted in Manorma Oagle Hospital,

suspecting that Vishal was possibly having jaundice. Then Vishal was admitted in the hospital at 12.45 p.m. Some treatment was given to him. There was slight improvement, some food was given to him, as advised by doctor. But at 8.30 p.m. the petitioner got message from his wife that Vishal was serious. Petitioner reached hospital, he was told by Dr. Anand Pandit that Vishal was suffering from Cerebral Malaria and they were removing Vishal to Prayag Hospital. Accordingly, Vishal was taken to Prayag Hospital. He was admitted and treatment was given. Doctors at Prayag Hospital started treating him and petitioner was told that in case of Cerebral Malaria chances of survival were nil but still they would make best efforts.

3. Ultimately, Vishal died and in this background it is the case of the petitioner as per the submissions made by his Advocate that doctors gave wrong medicine to Vishal which caused his death. In fact, in order to verify the truth of the allegations made by the complainant against doctors, all those papers were referred by Police Inspector to Deccan Gymkhana Police Station to Sasoon Hospital. Committee of Dr. Mrs. V. S. Bapat,

Dr. Gambhir, Dr. Mrs. Godbole, was constituted. They went through all those papers deeply and they came to the conclusion that diagnosis of the Vishal was proper so also treatment and medicines given to him. this opinion dated 1.12.1995 signed by Dr. Mrs. Phadke, Sasson Hospital, Pune, is filed at Exhibit 'A' to the Affidavit of Dr. Vishwanath L. Yomul, Dean, Sassoon General Hospitals, Pune, affirmed on 10.3.2005.

4. There are no allegations in the petition that doctors who treated Vishal in the hospitals had any animus against Vishal. Vishal was given treatment as per the symptoms revealed during his examination and the opinion of 3 doctor's committee of Sassoon Hospital, does not leave any room of doubt that Vishal died a natural death, in the sense, that he died as a result of a disease from which he was suffering. Ultimate conclusion given in the opinion / report (Exhibit 'A' to the affidavit dated 10.3.2005) is the "heart and lungs stopped functioning and virus spread in the body and bleeding." This cause was found proper by the committee it was an acute Cerebral Malaria, as rightly diagnosed.

5. Counsel for the petitioner repeatedly tried to contend that doctors have committed forgery in respect of documents. On what basis he made these submissions, could not be pointed out by him. Our attention was drawn by him to the documents from Sr. Nos. 33 to 50, he could not point out how, where and in which documents any forgery was made. He does not have the original and the so-called forged document from which he could have substantiated his claim. It may be that the petitioner has lost his son but he has failed to make out any case for interference. Therefore, petition is dismissed.

(D.G. DESHPANDE, J.)

(S.A. BOBDE, J.)